



CITY OF BOSTON
DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT
Thomas M. Menino, Mayor
Charlotte Golar Richie, Chief of Housing

RESIDENT PREFERENCE POLICY IN DND-ASSISTED HOUSING

Historically, DND has not required resident preference in the selection of buyers or tenants in its affordable housing developments. Originating in time when Boston was losing population, especially the middle class, attracting new residents to Boston's neighborhoods was an important public policy priority. Resident preference policies were in direct contradiction to that policy goal. Historically, approximately 10% of the homebuyers in DND-assisted developments were not Boston residents at the time of application.

In recent years, however, circumstances have changed substantially. Boston now has strong demand for its housing, reflected in the increasing house prices and low rental vacancy rates in every neighborhood. The City no longer needs to actively attract new residents as much as it needs to ensure its existing residents can find housing they can afford. Additionally, the City has undertaken a massive affordable housing production effort with a target of 2,100 new affordable units over three years. Most nearby suburban communities have not undertaken similar affordable housing production efforts; indeed some are actively seeking to reverse the long-standing affordable housing production incentive of Chapter 40B.

Given the great need for affordable housing, and the increasing imbalance between City and suburban housing production efforts, Boston can no longer be expected to meet the affordable housing needs of its residents and the needs of the suburbs as well. As an increasing number of those 2,100 units are now nearing completion and going into marketing, now is the time to modify the buyer/tenant selection policies in a way that accommodates these new conditions.

Consequently, DND will immediately implement a resident preference policy to the maximum level permitted by its funders. DND will assign first priority to documented Boston residents in the allocation of housing opportunities it creates either through the development of new housing or through its homebuyer assistance programs. Residents of all other communities will receive secondary priority.

This policy will remain in effect through the end of FY2005¹ at which time it will be reviewed to determine its effectiveness, its impact on the marketing of affordable housing, and if housing market and public policy conditions have again changed sufficiently to merit a reassessment.

¹ At this time it is expected that the tenant/buyer selection for all of the Leading The Way 2,100 units will be complete.

IMPLEMENTATION OF DND BOSTON RESIDENT PREFERENCE POLICY

1. Timetable

This policy has been phased in during the first quarter of 2003 in programs that do not involve State funds and in a manner that ensures that existing agreements regarding the marketing of specific units or Homebuyer Certificates are not violated. A final determination from the Massachusetts Department of Housing & Community Development (DHCD) regarding this policy was received in the Spring of 2003, and applies to DHCD-funded projects as of June 2003.

2. Definitions:

Boston Resident: defined as a household that, at the time of application for an affordable housing unit is a documented² full time³ resident of the City of Boston. In addition, the following non-residents will be granted residency status for the purposes of this policy: 1) in recognition of the fact that the market conditions that necessitate this policy have been in existence since early 1999, any former Boston resident that can show that they were a documented full-time resident of the city on or after January 1, 1999 will also be recognized as a Boston resident, 2) any non-resident tenant that can document that they were displaced from an apartment in the city as a result of the end of rent control in 1995-96 will also be granted Boston resident status, 3) any non-resident employee of the City of Boston⁴ wishing to become a resident of the city will also be assigned Boston resident status.

3. Applicability:

The Boston Resident Preference Policy will apply to the initial sale or rental of all housing created as a result of DND-controlled funding and/or real estate (whether or not a below-market price for the real estate is being charged). In addition, resales of DND-assisted units during this time period where DND acts as a marketing agent⁵ will be subject to this policy.

This policy also applies to the Homebuyer Financial & Technical Assistance services programs.

While all developers of DND-owned properties will be required to implement this policy when they sell/rent they housing create, the initial selection of developers for DND-owned properties does not have a Boston resident preference requirement except where the developer plans to occupy the property themselves.

² Generally documented in accordance with the same standards as required by the City of Boston for its employees to establish Boston residency (utility bills, bank statements, credit card bills, etc).

³ Excludes temporary residency in university residence halls, or other similar temporary housing situations

⁴ Includes only those employees that are permitted live outside the city in accordance with the City's residency laws. This includes employees hired before specific dates, and certain categories of Police, Fire and Schools employees.

⁵ There are no provisions in the Affordability Covenants of existing rental or ownership projects that would enable the city to retroactively implement this policy on resales or turnover rentups except where DND is asked to act as marketing agent.

4. Implementation Procedures

For projects selecting buyers/tenants using a lottery mechanism: Buyers/tenants from any community in the Commonwealth of Massachusetts are permitted to submit an application. After screening for eligibility, the remaining qualified applications will be placed into two pools: 1) qualified Boston residents and 2) qualified non-residents. Each household in the Boston resident pool will be assigned a consecutive number randomly by lottery⁶. Units will be offered in consecutive numerical order. If units/properties remain after the Boston resident pool has been exhausted, the members of the non-resident pool will be assigned numbers by lottery and units will then be offered to that pool in consecutive numerical order of that pool.

For projects selecting buyers/tenants using a ranking mechanism⁷: Buyer/Tenants from any community in the Commonwealth of Massachusetts are permitted to submit an application. Qualified Boston residents will be provided extra ranking points of no less than 5% of the total ranking points available. Applications will then be reviewed and independently ranked from highest to lowest. The units/properties will go to the highest ranked applications in order of total ranking points⁸.

For projects selecting buyers/tenants using a combined ranking/lottery mechanism: Buyers/Tenants from any community in the Commonwealth of Massachusetts are permitted to submit an application. A pool of the highest-ranked proposals will be created from all applications that meet certain ranking thresholds as determined by DND. The pool will then be divided into a Boston resident pool and a non-resident pool. Members of Boston resident pool will be assigned a consecutive number by lottery and the units/properties will be offered to the Boston resident pool in consecutive numerical order. If units/properties remain after the Boston resident pool has been exhausted, the members of the non-resident pool will be assigned numbers by lottery and units will then be offered to that pool in consecutive numerical order of that pool.

For Homebuyer Assistance Services: A Boston resident only policy will apply to all programs and services receiving funding from DND. Non-residents will be referred to those providers and services that are not receiving DND funding. Given the wide availability of non-DND funded homebuyer assistance programs, it is not anticipated that this policy will negatively affect the ability of non-residents to receive homebuyer assistance services. For non-residents currently holding a Home Certificate that qualifies them for downpayment/closing cost assistance, the certificate will not be renewed when it expires.

Special Provisions for Projects Receiving Funding from the Massachusetts Department of Housing & Community Development (DHCD): In projects receiving funds from DHCD⁹, the Boston

⁶ Individual projects are permitted to modify this standard template procedure to meet the individual circumstances of the projects, provided that these modifications do not undermine the intent of the 2-tiered selection process.

⁷ This generally includes City of Boston owned properties sold under the competitive proposal process required by MGL Chapter 30b.

⁸ In the case of a tie, Boston resident applications will be selected over non-resident applications.

⁹ Includes all projects that, at the time of the offering of the property/unit for sale/rent, have received, or can be reasonably be expected to receive in the future, resources controlled by DHCD regardless of the original source of funds.

preference can apply to no more than 70% of the units in the overall project¹⁰. This *provision does not require* that 30% of the units be sold/rented to non-residents, but does require that at least 30% of the units be made available in a manner that treats residents and non-residents equally. For projects using a lottery selection process, this will be implemented by creating a single qualified applicant pool of both residents and non-residents. Applicants will be assigned a random lottery number. Buyers/tenants will be selected by consecutive number. Non-residents selected through this process will be offered units up to the point where no more than 30% of the units have been offered to non residents. After this point, only Boston residents will be offered any remaining units. If any of the selected buyers/tenants fail to proceed, replacement buyers/tenants will be selected in order of lottery number provided that the 30% cap on non-residents is not violated.

Projects with Additional Preference Categories: Some projects may include additional preference requirements in the selection process. For example, there may be a household size preference provision to ensure that appropriately sized households receive priority in getting family-sized units. Where multiple preference categories exist, they must be structured in a manner that, *all other preference categories being equal*, a Boston resident will receive preference in the selection process over a non-resident¹¹.

Modifications to these Procedures: Individual projects are permitted and expected to modify these standard template procedures to meet the individual circumstances of each project, provided that these modifications do not undermine the intent of the resident preference selection process. Additionally, these modifications must not violate the 70% preference cap on DHCD-funded projects. *It is also required that any modifications to these processes be reviewed with the Boston Fair Housing Commission* at the earliest possible opportunity to ensure that these changes do not violate any fair housing, equal opportunity or affirmative marketing policies of the City of Boston. Where new template procedures are developed and approved by the Boston Fair Housing Commission, they will be incorporated into this document through amendments.

5. Exceptions to the Resident Preference Policy

While it is DND's intent to implement this policy as broadly as possible, the effects of this policy may, at times, run cross-purposes to other important goals of the department. Where DND determines that the overriding public interest is best served by modifying or waiving this policy, it reserves the right to do so. In anticipation of some of these issues, the following exemptions have already been identified:

- Homeless: Since the homeless do not, by definition, have a legal address, units set aside for the homeless are not subject to the Boston Resident Preference Policy.
- Units in Partially Vacant Properties: From time-to-time, DND funds the rehab of a partially vacant property. Generally these developments already have well-established waiting lists of prospective tenants. As long as the project has an established waiting list developed in accordance with fair housing requirements, the waiting list supercedes the resident preference

¹⁰ Defined as the total number of DHCD-funded units in the project.

¹¹ This layered preference requirement is limited to 70% of the units in DHCD-funded developments.

policy. If no such approved waiting list is established, units will be marketed in accordance with this policy.

- Senior Vacant Apartments: The delicate and sensitive nature of the tenant-senior relationship requires much greater flexibility in tenant selection than in a conventional rental project. Often the new tenants are extended family members that may not be current Boston residents. These units are exempted from this policy.
- Boston Housing Authority Subsidies: Some developments, such as those with project-based Section 8 contracts specify that tenants will be selected from the BHA Section 8 Waiting List. This Waiting List does not have a residency requirement¹². These units shall not be subject to the Boston Resident Preference Policy.
- Requirements From Funders: Some funders may require modification or elimination of the resident preference policy as a condition of providing financial support for the project. Where DND determines that the financial viability of the project is at risk, DND will modify this policy *to the least amount necessary* to accommodate the requirements of the funders.

¹² Only 5.4% of the households on the Waiting List are non-homeless, non-Boston residents.